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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,673

07/26/2005

Matthias Dammers

3988-045995

9744

28289 7590 02/25/2008  
THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

02/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,673	<b>Applicant(s)</b> DAMMERS ET AL.	
	<b>Examiner</b> THANH K. TRUONG	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment after final received on January 22, 2008.
2. In light of the amendment after final, the finality of the office action dated September 19, 2007 has been withdrawn.
3. Applicant's cancellation of claims 1-11 and 17-25 is acknowledged.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahlecker (WO 91/00826) in view of Goglio (5,285,954).

Stahlecker disclose a method (figures 1-9) comprising:

connecting the lid (2) to the body (1) in a liquid-tight fashion;

connecting the base (3) to the body;

sterilizing (figure 5) an interior of the container including the pouring opening (5);

filling the container with a product (7) through the pouring opening;

closing the container by sealing the closure film (4) on to the pouring element.

Stahlecker discloses the claimed invention, but it does not expressly disclose that the pouring element is a reclosable pouring element and the step of applying the cap to the reclosable pouring element.

Goglio discloses a method of making and filling a container in which the lid has a reclosable pouring element (25) that includes the step of applying the cap (26) to the reclosable pouring element. Goglio method provides an effective means to sealed the container by employing a reclosable pouring element (25) which including the cap (26) and the tamper evident sealed (13) to the container.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Stahlecker by incorporating the reclosable pouring element as taught by Goglio to provide an effective means to sealed the container by employing a reclosable pouring element which including the cap and the tamper evident means to the container.

The modified Stahlecker by Goglio further discloses:

Regarding claim 13, wherein the closure film (13) sealed prior to sterilizing is sealed onto the reclosable pouring element (25) after connecting the reclosable pouring element to the lid of the container.

Regarding claim 15, wherein the container with the reclosable pouring element affixed thereto and the closure film sealed on the reclosable pouring element with the pouring opening still open, further wherein the container is inserted with at least the lid having the relposable pouring element into a region delimited by side walls serving as a guide for a sterilizing means in a direction of the container and encloses tightly or with a small tolerance a circumference of the container in a region of the lid having the reclosable pouring element.

Regarding claim 16, wherein the container with at least the lid having the reclosable pouring element remains in the delimited region during a filling of the

container and a liquid-tight sealing of the pouring opening by sealing the closure film on the reclosable pouring element (figure 12 of Goglio).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stahlecker (WO 91/00826) in view of Goglio (5,285,954) and further in view of Crecelius et al. (4,872,571).

As discussed above, Stahlecker modified by Goglio discloses the claimed invention, but it does not expressly disclose that the threaded ferrule includes an unthreaded region and the closure film is sealed laterally on the unthreaded region of the threaded ferrule (as recited in claim 14).

Crecelius et al. discloses a method in which the threaded ferrule includes an unthreaded region (13) and the closure film is sealed laterally on the unthreaded region of the threaded ferrule to provide an effective means to attached the tamper evidence means to the pouring element (column 2, lines 6-14).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Stahlecker by incorporating the threaded ferrule that includes an unthreaded region as taught by Crecelius to provide an effective means to attached the tamper evidence means to the pouring element.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THANH K. TRUONG whose telephone number is (571)272-4472. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tk

February 18, 2008.

/THANH K. TRUONG/  
Primary Examiner  
Art Unit 3721